

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: Methyl Tertiary Butyl Ether ("MTBE")
Products Liability Litigation

This Document Relates To:
*Orange County Water District v. Unocal
Corporation, et al.*, Case No. 04 Civ. 4968 (SAS).

Master File No. 1:00-1898
MDL No. 1358 (SAS)
M21-88

The Honorable Shira A. Scheindlin

**DECLARATION OF GENE ORTEGA IN SUPPORT OF DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT BASED ON THE STATUTE OF LIMITATIONS**

DECLARATION OF GENE ORTEGA

I, Gene Ortega hereby declare:


1. I am a Project Manager for ExxonMobil Environmental Services Company. At the time that the following documents were transmitted, I had responsibility for supervising remediation activities at former Mobil Stations 18 – HDR (3195 Harbor Boulevard, Costa Mesa, CA) and 18 – JMY (3470 Fairview Road, Costa Mesa, CA). If called as a witness, I could and would competently testify to all facts within my personal knowledge as set forth herein.

2. Attached hereto as Exhibit A is a true and correct copy of correspondence dated April 21, 2009 and received by me from the Orange County Health Care Agency regarding a Confirmation Soil Boring Work Plan for former Mobil Station 18 – HDR.

3. Attached hereto as Exhibit B is a true and correct copy of correspondence dated February 24, 2009 and received by me from the Orange County Health Care Agency regarding a Soil Vapor Rebound Evaluation Report for former Mobil Station 18 – HDR.

4. Attached hereto as Exhibit C is a true and correct copy of correspondence dated April 20, 2009 and received by me regarding the First Quarter (2009) Site Status Groundwater Monitoring and Remedial Progress Report for former Mobil Station 18 – JMY.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed on June 16, 2009 at HUNTINGTON BEACH, California.



GENE ORTEGA
ExxonMobil Environmental Services
Company

Exhibit A



**COUNTY OF ORANGE
HEALTH CARE AGENCY**

**PUBLIC HEALTH SERVICES
ENVIRONMENTAL HEALTH**

*Excellence
Integrity
Service*

DAVID L. RILEY
INTERIM DIRECTOR

DAVID M. SOULELES, MPH
DEPUTY AGENCY DIRECTOR

RICHARD SANCHEZ, REHS, MPH
DIRECTOR
ENVIRONMENTAL HEALTH

MAILING ADDRESS:
1241 E. DYER ROAD
SUITE 120
SANTA ANA, CA 92705-5511

TELEPHONE: (714) 433-6000
FAX: (714) 754-1732
E-MAIL: eneath@ochca.com

April 21, 2009

Gene Ortega
ExxonMobil Oil Corporation
18685 Main Street, Suite 101 PMB 601
Huntington Beach, CA 92648-1719

Subject: Confirmation Soil Boring Work Plan dated March 27, 2009

Re: Former Mobil Station #18-HDR
3195 Harbor Boulevard
Costa Mesa, CA 92626
OCHCA Case #87UT226

Dear Mr. Ortega:

The Orange County Local Oversight Program (OCLOP) has reviewed the above referenced document prepared ETIC Engineering, Inc. The work plan proposes the advancement of three direct-push borings to a depth of approximately 30 feet below ground surface for the purpose of determining the effectiveness of the soil vapor extraction system. The work plan is approved with the following conditions:

1. All soil samples must be analyzed for total petroleum hydrocarbons as gasoline, volatile organic compounds and fuel oxygenates by EPA Method 8260B, full scan.
2. The OCLOP must be notified a minimum of 48 hours prior to initiating field activities.
3. Field activities must be completed within 60 days of receipt of this letter.
4. A report summarizing the field activities and results must be submitted to this Agency within 45 days of completion of said activities.
5. All required electronic data and reports in PDF format must be electronically submitted to Geotracker, as required by the California Code of Regulations, Title 23, Division 3, Chapter 30.

Gene Ortega
April 21, 2009
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If you have any questions, please contact me at (714) 433-6255.

Sincerely,

Original signed by

Denamarie Baker
Hazardous Waste Specialist
Hazardous Materials Mitigation Section
Environmental Health

cc: Rose Scott, Santa Ana Regional Water Quality Control Board
Ross Inouye, ETIC Engineering, Inc.

Exhibit B



**COUNTY OF ORANGE
HEALTH CARE AGENCY**

**PUBLIC HEALTH SERVICES
ENVIRONMENTAL HEALTH**

JULIETTE A. POULSON, RN, MN
DIRECTOR

DAVID M. SOULELES, MPH
DEPUTY AGENCY DIRECTOR

RICHARD SANCHEZ, REHS, MPH
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Service*

February 24, 2009

Gene Ortega
ExxonMobil Oil Corporation
18685 Main Street, Suite 101 PMB 601
Huntington Beach, CA 92648-1719

Subject: Soil Vapor Rebound Evaluation Report dated January 22, 2009

Re: Former Mobil Station #18-HDR
3195 Harbor Boulevard
Costa Mesa, CA 92626
OCHCA Case #87UT226

Dear Mr. Ortega:

The Orange County Local Oversight Program (OCLOP) has reviewed the above referenced document prepared ETIC Engineering, Inc. The Soil Vapor Rebound Evaluation report summarizes the results of the rebound test of the soil vapor extraction (SVE) system. After reviewing the report, the OCLOP has the following comments:

1. The report states that no significant increase in vapor concentrations was observed in any individual extraction well and recommends that SVE system remain shut down and post-remedial groundwater monitoring begin. The OCLOP concurs with this recommendation. Please note the post-remedial monitoring period is a minimum of two years.
2. Section 4, Phase II Investigations/Confirmation Soil Borings, states that nine soil borings (DV1 through DV9) were advanced between April 28 and May 1, 2008 for real estate divestment purposes and requests that the results of these borings be used as confirmation borings. Data from some of the divestment borings can be used in lieu of confirmation borings, however, there are additional areas which are not addressed by the divestment borings and will require confirmation borings:
 - a. Immediately adjacent to monitoring well RMC1A
 - b. South of SVE well VEW8 and east of boring B2
 - c. Between SVE well VEW4 and monitoring well RMC3

Gene Ortega
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3. Please note, the cumulative soil analytical data table does not contain laboratory results for the following borings/wells: existing groundwater monitoring well MW10A/B, abandoned wells B1, B4, B19, unconfirmed groundwater monitoring well locations MW11, MW12, and MW13, and abandoned monitoring well MW11 (offsite in Harbor Boulevard). Please provide a comprehensive soil analytical table with the next quarterly monitoring report.
4. All required electronic data and reports in PDF format must be electronically submitted to Geotracker, as required by the California Code of Regulations, Title 23, Division 3, Chapter 30.

If you have any questions, please contact me at (714) 433-6255.

Sincerely,

Original signed by

Denamarie Baker
Hazardous Waste Specialist
Hazardous Materials Mitigation Section
Environmental Health

cc: Rose Scott, Santa Ana Regional Water Quality Control Board
Ross Inouye, ETIC Engineering, Inc.

Exhibit C



**COUNTY OF ORANGE
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April 20, 2009

Gene Ortega
ExxonMobil Oil Corporation
18685 Main Street, Suite 101 PMB 601
Huntington Beach, CA 92648-1719

**Subject: First Quarter Site Site Status, Groundwater Monitoring and Remedial Progress
Report dated March 18, 2009**

**Re: Mobil Station #18-JMY
3470 Fairview Road
Costa Mesa, CA 92626
OCHCA Case #94UT055**

Dear Mr. Ortega:

The Orange County Local Oversight Program (OCLOP) has reviewed the above referenced document prepared by ETIC Engineering, Inc. The quarterly monitoring report summarizes the results of the groundwater sampling event conducted on February 5 and 6, 2009. After reviewing the reports, the OCLOP has the following comments:

1. Per the OCLOP Groundwater Monitoring Report guidelines (attached), a conclusions and recommendations section must be included as a main element of submitted monitoring reports. Additionally, Section IV B states that "all groundwater monitoring reports should include a brief analysis of the data presented and make recommendations for any modifications to the next monitoring event that are appropriate. Comments regarding significant changes in groundwater elevation, groundwater flow direction, contaminant distribution, or contaminant concentrations must be presented in this section with a discussion of the potential cause." If there have been no significant changes during the reporting period, this must be stated in this section. The explanation provided in the Brief Trend Analysis section regarding the observed changes in depth to groundwater (decreases of up to 12.89 feet) is not sufficient. Please provide the OCLOP with a written analysis of the observed groundwater elevation changes.
2. Total petroleum hydrocarbons as gasoline was detected for the first time in monitoring well MW22D. Due to the proximity of a groundwater production well, continued detections of petroleum constituents in this well will result in additional assessment activities and/or modifications to the remediation in progress.

Gene Ortega
April 20, 2009
Page 2

If you have any questions, please contact me at (714) 433-6255.

Sincerely,

Original signed by

Denamarie Baker
Hazardous Waste Specialist
Hazardous Materials Management Section
Environmental Health

cc: Rose Scott, Santa Ana Regional Water Quality Control Board
Ross Inouye, ETIC Engineering, Inc.